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Forty-ninth session
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Agenda item 137

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SIXTH SESSION

Ghana: amendments to draft resolution A/C.6/49/L.24

1. Replace operative paragraph 6 with the following:

6. Decides, on the basis of the conclusions of the ad hoc committee, to convene a United Nations conference of plenipotentiaries not later than 1997 to elaborate and adopt a statute of an international criminal court.

2. Insert a new operative paragraph 7 as follows:

7. Further decides that the draft statute of an international criminal court and commentaries by the International Law Commission, the summary of the debate in the Sixth Committee at the forty-ninth session of the General Assembly on the report of the Commission, the summary of the debate in, and the report of, the ad hoc committee, as well as the comments of States, shall be transmitted by the Secretary-General to the United Nations conference of plenipotentiaries as background documentation for the elaboration and adoption of the statute of an international criminal court.

3. Insert a new operative paragraph 8 as follows:

8. Decides also to include in the provisional agenda of its fiftieth session an item entitled "Establishment of an international criminal court".

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REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS FORTY-SIXTH SESSION

Draft resolution proposed by the Chairman

Draft articles on the law of the non-navigational
uses of international watercourses

The General Assembly,

Having considered chapter III of the report of the International Law Commission on the work of its forty-sixth session, 1/ which contains final draft articles of and commentaries on the law of the non-navigational uses of international watercourses,

Noting that the Commission decided to recommend the draft articles to the General Assembly, and recommended the elaboration of a convention by the Assembly or by an international conference of plenipotentiaries on the basis of the draft articles,

Mindful of Article 13, paragraph 1 (a), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Believing that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter,

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1/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), pp. 195-326.

Taking into account the existence of bilateral or multilateral agreements governing the non-navigational uses of international watercourses, which should not be affected by the adoption of a new international instrument unless the parties to those agreements have otherwise decided,

1. Expresses its appreciation to the International Law Commission for its valuable work on the law of the non-navigational uses of international watercourses, and to the successive special rapporteurs for their contribution to that work;

2. Invites States to submit, not later than 1 August 1995, written comments and observations on the draft articles adopted by the International Law Commission;

3. Decides that, at the beginning of its fiftieth session, the Sixth Committee shall convene as a Working Group of the Whole for three weeks from 2 to 20 October 1995 to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments of States as well as views expressed in the debate at the forty-ninth session of the General Assembly;

4. Also decides that the Working Group of the Whole shall, without prejudice to the rules of procedure of the General Assembly, follow the methods of work and procedures outlined in the annex to the present resolution, subject to any modifications which it may deem appropriate;

5. Requests the Secretary-General to arrange for the presence of the Special Rapporteur on the law of the non-navigational uses of international watercourses as an expert during the debates on the topic at the fiftieth session of the General Assembly, and to submit at that session all relevant documentation;

6. Decides to include in the provisional agenda of its fiftieth session an item entitled "Convention on the law of the non-navigational uses of international watercourses".

ANNEX

Methods of work and procedures

The draft articles prepared by the International Law Commission shall be the basic proposal before the Working Group of the Whole.

The Working Group of the Whole shall start at once with a discussion of the draft articles on an article by article basis, without prejudice to the possibility of considering simultaneously closely connected articles, the decisions on article 2 on "Use of terms" being reserved for the concluding stages of the work.

The Working Group of the Whole shall establish a Drafting Committee. The Chairman of the Working Group shall determine the composition of the Drafting Committee. The Drafting Committee shall elect its own Chairman.

Once considered by the Working Group of the Whole, each article or group of articles shall be referred to the Drafting Committee for examination in the light of the discussion.

The Drafting Committee shall make recommendations to the Working Group of the Whole in relation to each article or group of articles. It shall also prepare and present to the Working Group of the Whole, for its approval, a draft preamble and a set of final clauses.

The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly.

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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SIXTH SESSION

Revised draft resolution proposed by the Chairman

Draft articles on the law of the non-navigational uses of international watercourses

The General Assembly,

Having considered chapter III of the report of the International Law Commission on the work of its forty-sixth session, 1/ which contains final draft articles of and commentaries on the law of the non-navigational uses of international watercourses,

Noting that the Commission decided to recommend the draft articles to the General Assembly, and recommended the elaboration of a convention by the Assembly or by an international conference of plenipotentiaries on the basis of the draft articles,

Mindful of Article 13, paragraph 1 (a), of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Believing that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter,

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1/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), pp. 195-326.

Taking into account the existence of bilateral or multilateral agreements governing the non-navigational uses of international watercourses, which should not be affected by the adoption of a new international instrument unless the parties to those agreements have otherwise decided,

Taking into account also that, despite the existence of a number of bilateral treaties and regional agreements, the use of international watercourses is still based in part on general principles and rules of customary law,

1. Expresses its appreciation to the International Law Commission for its valuable work on the law of the non-navigational uses of international watercourses, and to the successive special rapporteurs for their contribution to that work;

2. Invites States to submit, not later than 1 July 1996, written comments and observations on the draft articles adopted by the International Law Commission;

3. Decides that, at the beginning of its fifty-first session, the Sixth Committee shall convene as a Working Group of the Whole, open to States Members of the United Nations or members of specialized agencies, for three weeks from 7 to 25 October 1996 to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments and observations of States as well as views expressed in the debate at the forty-ninth session of the General Assembly;

4. Also decides that the Working Group of the Whole shall, without prejudice to the rules of procedure of the General Assembly, follow the methods of work and procedures outlined in the annex to the present resolution, subject to any modifications which it may deem appropriate;

5. Requests the Secretary-General to arrange for the presence of the Special Rapporteur on the law of the non-navigational uses of international watercourses as an expert during the debates on the topic at the fifty-first session of the General Assembly, and to submit at that session all relevant documentation;

6. Decides to include in the provisional agenda of its fifty-first session an item entitled "Convention on the law of the non-navigational uses of international watercourses".

ANNEX

Methods of work and procedures

The draft articles prepared by the International Law Commission shall be the basic proposal before the Working Group of the Whole.

The Working Group of the Whole shall start at once with a discussion of the draft articles on an article-by-article basis, without prejudice to the possibility of considering simultaneously closely connected articles, the decisions on article 2 on "Use of terms" being reserved for the concluding stages of the work.

The Working Group of the Whole shall establish a Drafting Committee.

Once considered by the Working Group of the Whole, each article or group of articles shall be referred to the Drafting Committee for examination in the light of the discussion.

The Drafting Committee shall make recommendations to the Working Group of the Whole in relation to each article or group of articles. It shall also prepare and present to the Working Group of the Whole, for its approval, a draft preamble and a set of final clauses.

The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly.

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REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS FORTY-SIXTH SESSION

Bangladesh: amendments to draft resolution A/C.6/49/L.27

1. In operative paragraph 2, replace 1 August 1995 with 1 January 1996.

2. Insert a new operative paragraph after operative paragraph 2, reading as follows:

Requests the Secretary-General to circulate not later than 15 February 1996 written comments and observations submitted by States on the subject.

3. Replace operative paragraph 3 with the following:

Decides to convene an international conference of plenipotentiaries to elaborate and conclude a convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles recommended by the International Law Commission, the written comments and observations of States submitted under operative paragraph 2, and the views expressed in the debate on the subject at the forty-ninth session of the General Assembly.

4. Replace operative paragraph 4 with the following:

Also decides that the date and place of the conference shall be determined at the fiftieth session of the General Assembly, due consideration being given to the need for adequate preparatory work, circulation of the comments of States and previous reports of the Special

Rapporteurs of the International Law Commission on this subject with a view to ensuring the widest possible agreement at the conference.

5. Delete the annex.

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UNITED NATIONS DECADE OF INTERNATIONAL LAW

Draft resolution proposed by the Chairman of the Working Group on the United Nations Decade of International Law

United Nations Decade of International Law

The General Assembly,

Recalling its resolution 44/23 of 17 November 1989, by which it declared the period 1990-1999 the United Nations Decade of International Law,

Recalling also that the main purposes of the Decade, according to resolution 44/23, should be, inter alia:

(a) To promote acceptance of and respect for the principles of international law;

(b) To promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;

(c) To encourage the progressive development of international law and its codification;

(d) To encourage the teaching, study, dissemination and wider appreciation of international law,

Recalling further its resolution 47/32 of 25 November 1992, to which was annexed the programme for the activities for the second term (1993-1994) of the Decade,

Expressing its appreciation to the Secretary-General for his report 1/ submitted pursuant to resolution 48/30 of 9 December 1993,

Having considered the above-mentioned report of the Secretary-General, including the annex thereto,

Recalling that at its forty-fifth session the Sixth Committee established the Working Group on the United Nations Decade of International Law with a view to preparing generally acceptable recommendations on the programme of activities for the Decade,

Noting that at its forty-sixth, forty-seventh, forty-eighth and forty-ninth sessions the Sixth Committee reconvened the Working Group to continue its work in accordance with resolutions 45/40 of 28 November 1990, 46/53 of 9 December 1991, 47/32 of 25 November 1992 and 48/30 of 9 December 1993,

Having considered the report of the Working Group submitted to the Sixth Committee, 2/

1. Expresses its appreciation to the Sixth Committee for the elaboration, within the framework of its Working Group on the United Nations Decade of International Law, of the programme for the activities to be commenced during the third term (1995-1996) of the Decade, and requests the Working Group to continue its work at the fiftieth session in accordance with its mandate and methods of work;

2. Also expresses its appreciation to States and international organizations and institutions that have undertaken activities in implementation of the programme for the second term (1993-1994) of the Decade, including sponsoring conferences on various subjects of international law;

3. Adopts the programme for the activities to be commenced during the third term (1995-1996) of the Decade as an integral part of the present resolution, to which it is annexed;

4. Invites all States and international organizations and institutions referred to in the programme to undertake the relevant activities outlined therein and to provide information in this respect to the Secretary-General for transmission to the General Assembly at its fiftieth session or, at the latest, its fifty-first session;

5. Requests the Secretary-General to submit, on the basis of such information as well as new information on the activities of the United Nations relevant to the progressive development of international law and its codification, a report to the General Assembly at its fiftieth session on the implementation of the programme;

1/ A/49/323 and Add.1 and 2.

2/ A/C.6/49/L.10.

6. Encourages States to disseminate at the national level, as appropriate, information contained in the report of the Secretary-General;

7. Appeals to States, international organizations and non-governmental organizations working in the field of international law and to the private sector to make financial contributions or contributions in kind for the purpose of facilitating the implementation of the programme;

8. Requests the Secretary-General to bring to the attention of States and international organizations and institutions working in the field of international law the programme annexed to the present resolution;

9. Also requests the Secretary-General to proceed with the organization of the United Nations Congress on Public International Law, to be held from 13 to 17 March 1995, within existing resources and assisted by voluntary contributions, taking into account the guidance provided at the forty-eighth and forty-ninth sessions of the General Assembly, and to keep the Member States informed of the status of the preparations;

10. Recognizes that international humanitarian law remains an area of particular relevance, and in this connection notes that an intergovernmental meeting of experts will be convened by the Government of Switzerland in January 1995 in order to prepare a report on practical means of promoting full respect for and compliance with international humanitarian law;

11. Invites all States to disseminate widely the revised guidelines for military manuals and instructions on the protection of the environment in times of armed conflict 3/ received from the International Committee of the Red Cross and to give due consideration to the possibility of incorporating them into their military manuals and other instructions addressed to their military personnel;

12. Invites the International Committee of the Red Cross to continue to report on activities undertaken by the Committee and other relevant bodies with regard to the protection of the environment in times of armed conflict, so that the information received may be included in the report to be prepared pursuant to paragraph 5 of the present resolution;

13. Decides to include in the provisional agenda of its fiftieth session the item entitled "United Nations Decade of International Law".

3/ A/49/323, annex.

ANNEX

Programme for the activities for the third term (1995-1996) of the United Nations Decade of International Law

I. PROMOTION OF THE ACCEPTANCE OF AND RESPECT FOR THE PRINCIPLES OF INTERNATIONAL LAW

1. The General Assembly, bearing in mind that maintenance of international peace and security is the underlying condition for the success of the implementation of the programme for the United Nations Decade of International Law, calls upon States to act in accordance with international law, and particularly the Charter of the United Nations, and encourages States and international organizations to promote the acceptance of and respect for the principles of international law.

2. States are invited to consider, if they have not yet done so, becoming parties to existing multilateral treaties, in particular those relevant to the progressive development of international law and its codification. International organizations under whose auspices such treaties are concluded are invited to indicate whether they publish periodic reports on the status of ratifications of and accessions to multilateral treaties, and if they do not, to indicate whether in their view such a process would be useful. Consideration should be given to the question of treaties which have not achieved wider participation or entered into force after a considerable lapse of time and the circumstances causing the situation.

3. States and international organizations are encouraged to provide assistance and technical advice to States, in particular to developing countries, to facilitate their participation in the process of multilateral treaty-making, including their adherence to and implementation of multilateral treaties, in accordance with their national legal systems.

4. States are encouraged to report to the Secretary-General on ways and means provided for in the multilateral treaties to which they are parties, regarding the implementation of such treaties. International organizations are similarly encouraged to report to the Secretary-General on ways and means provided for by the multilateral treaties concluded under their auspices, regarding the implementation of such treaties. The Secretary-General is requested to prepare a report on the basis of this information and to submit it to the General Assembly.

5. The General Assembly, recognizing the importance of the protection of cultural property in the event of armed conflict, takes note of the efforts under way to facilitate the implementation of existing international instruments in this field.

II. PROMOTION OF MEANS AND METHODS FOR THE PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES, INCLUDING RESORT TO AND FULL RESPECT FOR THE INTERNATIONAL COURT OF JUSTICE

1. States, the United Nations system of organizations and regional organizations, including the Asian-African Legal Consultative Committee, as well as the International Law Association, the Institute of International Law, the Hispano-Luso-American Institute of International Law and other international institutions working in the field of international law, and national societies of international law, are invited to study the means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, and to present suggestions for the promotion thereof to the Sixth Committee.

2. Taking into account the suggestions mentioned in paragraph 1 of the present section and with due regard to the recommendations contained in the report of the Secretary-General entitled "An Agenda for Peace", 4/ the Sixth Committee should consider, where appropriate, on the basis of a report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, or of the Working Group on the United Nations Decade of International Law, the following questions:

(a) Strengthening the use of means and methods for the peaceful settlement of disputes, with particular attention to the role to be played by the United Nations, as well as methods for early identification and prevention of disputes and their containment;

(b) Procedures for the peaceful settlement of disputes arising in specific areas of international law;

(c) Ways and means of encouraging greater recognition of the role of the International Court of Justice and its wider use in the peaceful settlement of disputes;

(d) Enhancement of cooperation of regional organizations with the United Nations system of organizations in respect of the peaceful settlement of disputes;

(e) Wider use of the Permanent Court of Arbitration.

III. ENCOURAGEMENT OF THE PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW AND ITS CODIFICATION

1. International organizations, including the United Nations system of organizations and regional organizations, are invited to submit to the Secretary-General of the United Nations summary information regarding the programme and results of their work relevant to the progressive development of

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4/ A/47/277-S/24111.

international law and its codification, including their suggestions for future work in their specialized field, with an indication of the appropriate forum to undertake such work. Similarly, the Secretary-General is requested to prepare a report on the relevant activities of the United Nations, including those of the International Law Commission. Such information should be presented in a report by the Secretary-General to the Sixth Committee.

2. On the basis of the information mentioned in paragraph 1 of the present section, States are invited to submit suggestions for consideration by the Sixth Committee and, as appropriate, recommendations. In particular, efforts should be made to identify areas of international law which might be ripe for progressive development of codification.

3. The Sixth Committee should study, taking into account General Assembly resolution 684 (VII) of 6 November 1952, 5/ its coordinating role with respect, inter alia, to the drafting of provisions of a legal nature and the consistent use of legal terminology in international instruments adopted by the General Assembly. States are invited to present proposals in this regard to the Sixth Committee.

4. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should continue to study possible measures to strengthen the United Nations system for the maintenance of international peace and security. In that context, the Special Committee should bear in mind the debate within the United Nations, particularly within the General Assembly, on the report of the Secretary-General entitled "An Agenda for Peace".

IV. ENCOURAGEMENT OF THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW

1. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should, in the context of the Decade, continue to formulate, as appropriate and in a timely manner, relevant guidelines for the Programme's activities and report to the Sixth Committee on the activities carried out under the Programme in accordance with such guidelines. Special emphasis should be given to supporting academic and professional institutions already carrying out research and education in international law, as well as to encouraging the establishment of such institutions where they might not exist, particularly in the developing countries. States and other public or private bodies are encouraged to contribute to the strengthening of the Programme.

2. States should encourage their educational institutions to introduce courses in international law for students studying law, political science, social sciences and other relevant disciplines; they should study the

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5/ See annex II to the rules of procedure of the General Assembly (A/520/Rev.15).

possibility of introducing topics of international law in the curricula of schools at the primary and secondary levels. Cooperation between institutions at the university level among developing countries, on the one hand, and their cooperation with those of developed countries, on the other, should be encouraged.

3. States should consider convening conferences of experts at the national and regional levels in order to study the question of preparing model curricula and materials for courses in international law, training of teachers in international law, preparation of textbooks on international law and the use of modern technology to facilitate the teaching of and research in international law.

4. States, the United Nations system of organizations and regional organizations should consider organizing seminars, symposia, training courses, lectures and meetings and undertaking studies on various aspects of international law.

5. States are encouraged to organize special training in international law for legal professionals, including judges, and personnel of ministries of foreign affairs and other relevant ministries as well as military personnel. The United Nations Institute for Training and Research, the United Nations Educational, Scientific and Cultural Organization, The Hague Academy of International Law, the International Institute of Humanitarian Law, regional organizations and the International Committee of the Red Cross are invited to continue cooperating in this respect with States.

6. In connection with the training of military personnel, States are encouraged to foster the teaching and dissemination of the principles governing the protection of the environment in times of armed conflict and should consider the possibility of making use of the guidelines for military manuals and instructions prepared by the International Committee of the Red Cross. 3/

7. Cooperation among developing countries, as well as between developed and developing countries, in particular among those persons who are involved in the practice of international law, for exchanging experience and for mutual assistance in the field of international law, including assistance in providing textbooks and manuals of international law, is encouraged.

8. In order to make better known the practice of international law, States and international and regional organizations should endeavour to publish, if they have not done so, summaries, repertories or yearbooks of their practice.

9. States and international organizations should encourage the publication of important international legal instruments and studies by highly qualified publicists, bearing in mind the possibility of assistance from private sources.

10. The Secretary-General of the United Nations, in cooperation with the Registry of the International Court of Justice, is encouraged to update the publication Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice (1949-1991), in all the official languages of the Organization and within the existing overall level of appropriations.

11. Other international courts and tribunals, including the European Court of Human Rights and the Inter-American Court of Human Rights, are invited to disseminate more widely their judgements and advisory opinions, and to consider preparing thematic or analytical summaries thereof.

12. International organizations are requested to publish treaties concluded under their auspices, if they have not yet done so. Timely publication of the United Nations Treaty Series is encouraged and efforts directed towards adopting an electronic form of publication should be continued. Timely publication of the United Nations Juridical Yearbook is also encouraged.

V. PROCEDURES AND ORGANIZATIONAL ASPECTS

1. The Sixth Committee, working primarily through its Working Group on the United Nations Decade of International Law and with the assistance of the Secretariat, will be the coordinating body of the programme for the Decade. The question of the use of an intra-sessional, inter-sessional or existing body to carry out specific activities of the programme may be considered by the General Assembly.

2. The Sixth Committee is requested to continue to prepare the programme of activities for the Decade.

3. The Secretariat should proceed with the organization of the United Nations Congress on Public International Law to be held from 13 to 17 March 1995, within existing resources and assisted by voluntary contributions, taking into account the guidance provided at the forty-eighth and forty-ninth sessions of the General Assembly, and keep the Member States informed of the status of the preparations.

4. All organizations and institutions referred to and invited to submit reports to the Secretary-General under sections I to IV above are requested to submit interim or final reports preferably at the fiftieth session but not later than the fifty-first session of the General Assembly.

5. States are encouraged to establish, as necessary, national, subregional and regional committees which may assist in the implementation of the programme for the Decade. Non-governmental organizations are encouraged to promote the purposes of the Decade within the fields of their activities, as appropriate.

6. It is recognized that, within the existing overall level of appropriations, adequate financing for the implementation of the programme for the Decade is necessary and should be provided. Voluntary contributions from

Governments, international organizations and other sources, including the private sector, would be useful and are strongly encouraged. To this end, the establishment of a trust fund to be administered by the Secretary-General might be considered by the General Assembly.